

HOUSE BILL No. 1226

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-14; IC 12-8-15; IC 12-15; IC 25-1; IC 25-2.1-13-1; IC 25-4-2-10; IC 25-6.1-7-3; IC 25-10-1-14; IC 25-14-1-14; IC 25-15-8-19; IC 25-19-1-14; IC 25-20.2-8-4; IC 25-20.5-1-26; IC 25-21.5-11-1; IC 25-22.5-8-4; IC 25-23-1-27.2; IC 25-24-1-19; IC 25-26-13-28; IC 25-27-1-12; IC 25-30-1; IC 25-30-1.3; IC 25-31-1-29; IC 25-33-1-16; IC 25-34.1; IC 25-34.5-3-2; IC 25-38.1-4-12; IC 34-30-2-2.5; IC 35-48.

Synopsis: Health and Medicaid fraud matters. Establishes procedures for the attorney general to seize, secure, store, and destroy abandoned or at risk health records and other records containing personally identifying information. Creates a health records and personal identifying information protection trust fund to pay for costs associated with securing and maintaining the records. Allows the office of the secretary of family and social services to exclude specified persons who engage in fraud or abuse from participating in state administered health care programs. Requires the office of the secretary to maintain a list of persons excluded from participating in state administered health care programs and provide that list to specified persons. Requires a Medicaid provider or applicant to submit a \$50,000 surety bond to the office of Medicaid policy and planning to be used for specified purposes before the provider may receive reimbursement. Establishes a uniform procedure to allow a board of a regulated occupation to issue a cease and desist order to an unlicensed person who engages in an activity that requires a license. Repeals and makes conforming changes concerning cease and desist and injunctions orders. Prohibits health professions licensing boards from accepting the
(Continued next page)

Effective: July 1, 2010.

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January 11, 2010, read first time and referred to Committee on Public Health.



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surrender of a license if the attorney general files an administrative action against the practitioner and opposes the surrender. Provides for automatic revocation of a controlled substances advisory commission permit if a physician's license is revoked. (Current law requires a separate administrative process to take place if a physician's license is revoked.) Provides that a pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance.

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Introduced

Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

HOUSE BILL No. 1226

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 4-6-14 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2010]:

4 **Chapter 14. Health Records and Identifying Information**
5 **Protection**

6 **Sec. 1.** As used in this chapter, "health care provider" means a
7 person listed in IC 16-39-7-1(a)(1) through IC 16-39-7-1(a)(11).

8 **Sec. 2.** As used in this chapter, "personal information" has the
9 meaning set forth in IC 24-4.9-2-10.

10 **Sec. 3.** As used in this chapter, "regulated professional" means
11 an individual who is regulated by a board listed under
12 IC 25-1-11-1.

13 **Sec. 4.** The attorney general shall establish a system to protect
14 abandoned or at risk health records and other records that contain
15 personal information. As part of the system, the attorney general



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may do the following with the documents:

- (1) Seize.
- (2) Store.
- (3) Maintain.
- (4) Transfer.
- (5) Protect.

Sec. 5. The attorney general shall do the following:

- (1) Investigate allegations that a health care provider has:
 - (A) abandoned;
 - (B) attempted to destroy; or
 - (C) distributed or is attempting to distribute;
 original patient health records in violation of IC 16-39-7-1(b).
- (2) Investigate allegations that a regulated professional has:
 - (A) abandoned;
 - (B) attempted to destroy or is destroying; or
 - (C) distributed or is attempting to distribute;
 records containing personal information in violation of IC 24-4.9.
- (3) Cooperate with federal, state, and local law enforcement agencies in the investigation and prosecution of criminal, civil, or administrative actions concerning patient health records or other records that contain personal information.

Sec. 6. (a) The attorney general may do any of the following when conducting an investigation under section 5 of this chapter:

- (1) Issue and serve a subpoena for:
 - (A) the production, seizure, and preservation of the original records, including records stored in electronic data processing systems, books, papers, and documents; and
 - (B) the appearance of a person to provide testimony under oath.
- (2) Apply to the Marion Circuit Court to enforce a subpoena described in subdivision (1).
- (3) Notify the patients and those individuals identified in:
 - (A) health records; or
 - (B) records or documents that contain personal information;

that the attorney general has taken possession of the records or documents. The notice in this subdivision must include information about the procedure for either obtaining originals or copies of the records or having the original records sent to a duly authorized subsequent treating health care provider.

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(b) The attorney general is entitled to costs in any enforcement action under this chapter.

Sec. 7. (a) The attorney general shall maintain an original patient health record obtained under section 6 of this chapter for the lesser of the following:

(1) The time required under IC 16-39-7-1 and IC 16-39-7-2.

(2) Three (3) years after the date the records are seized or secured.

(b) When the time expires under subsection (a), the attorney general may destroy the original patient records obtained under section 5 of this chapter.

Sec. 8. (a) The attorney general shall maintain records that are not health records but contain personal information for at least three (3) years after the date the records are seized or secured.

(b) When the time expires under subsection (a) and after notification under section 6 of this chapter, the attorney general may destroy the records that contain personal information.

Sec. 9. (a) The health records and personal identifying information protection trust fund is established for the purpose of paying storage, maintenance, copying, mailing, and transfer of:

(1) patient health records; and

(2) records containing personal information;

as required under this chapter. Expenditures from the trust fund may be made only to carry out the purposes of this subsection.

(b) Subject to subsection (c), if a health care provider or a regulated professional is disciplined under IC 25-1-9 or IC 25-1-11, the board that issues the disciplinary order shall impose a mandatory civil penalty against the individual of five dollars (\$5). The civil penalty must be deposited into the health records and personal identifying information protection trust fund.

(c) If the amount in the health records and personal identifying information protection trust fund exceeds seventy-five thousand dollars (\$75,000), the civil penalty imposed under subsection (b) may not be imposed on an individual who is subject to a disciplinary order.

(d) The attorney general shall administer the trust fund.

(e) The expenses of administering the trust fund shall be paid from the money in the fund.

(f) The treasurer of state shall invest the money in the trust fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(g) Money in the trust fund at the end of a state fiscal year does

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not revert to the state general fund.

Sec. 10. The attorney general is immune from civil liability for destroying or failing to maintain custody and control of any record obtained under this chapter.

Sec. 11. (a) The following may cooperate with the attorney general's office to implement this chapter:

(1) The Indiana professional licensing agency and the appropriate board that regulates a health care provider or a regulated professional under IC 25.

(2) The state police department.

(3) A prosecuting attorney.

(4) Local law enforcement agencies.

(5) Federal law enforcement agencies.

(b) The attorney general may:

(1) file a complaint against a health care provider or a regulated professional with an entity listed in subsection (a); and

(2) cooperate in an investigation concerning a health care provider or a regulated professional conducted by an entity listed in subsection (a);

to carry out the purposes of this chapter.

Sec. 12. The attorney general may adopt rules under IC 4-22-2 that are necessary to administer and implement this chapter.

SECTION 2. IC 12-8-15 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 15. Participation and Payment for State Administered Health Care Programs

Sec. 1. The office of the secretary may exclude the following persons from participating in a state administered health care program:

(1) A person who has been convicted of a criminal offense related to the delivery of an item or service under the federal Medicare program or under a state administered health care program.

(2) A person who has been convicted of a criminal offense relating to neglect or abuse of a patient during the delivery of a health care item or service.

(3) A person who meets at least one (1) of the following:

(A) Has submitted or caused to be submitted a bill or request for payment for an item or service that substantially exceeds the person's usual charge or cost for

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the item or service, unless there is good cause for the charge.

(B) Has furnished or caused to be furnished an item or service to a patient that:

- (i) substantially exceeds the needs of the patient; or
- (ii) is of a quality that fails to meet professionally recognized standards of health care.

(C) Has furnished services under a Medicaid waiver that failed substantially to provide medically necessary items and services required under law or the Medicaid provider contract and the failure has adversely affected or has the substantial likelihood of adversely affecting the patient.

(D) Is providing items or services as a risk based managed care organization and has failed substantially to provide medically necessary items and services that are required under law or contract to be provided to an individual covered under the risk sharing contract and the failure has adversely affected or has the substantial likelihood of adversely affecting the individual.

(E) Has had the person's license to provide health care services revoked, suspended, surrendered, or otherwise prohibited to renew the license by the licensing entity for reasons related to the person's:

- (i) professional competence;
- (ii) professional performance; or
- (iii) financial integrity.

(F) Has failed to grant immediate access upon reasonable request to any of the following:

- (i) The office of the secretary or an entity contracting with and representing the office.
- (ii) The inspector general of the United States Department of Health and Human Services, for the purpose of reviewing records, documents, and other data necessary in the course of the inspector general's job.
- (iii) The state Medicaid fraud control unit established under IC 4-6-10.

(G) Has collected or attempted to collect any amount not reimbursed by Medicaid from a Medicaid recipient unless expressly authorized by state or federal law.

Sec. 2. (a) The office of the secretary may not reimburse:

- (1) a person;
- (2) a person who owns or controls at least five percent (5%)

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1 of the business of a person; or
 2 (3) an officer, director, agent, or managing employee of a
 3 person;
 4 described in section 1 of this chapter for providing items or
 5 services under a state administered health care program.

6 (b) The office of the secretary shall maintain a list of persons
 7 described in section 1 of this chapter and make the list available to
 8 health care providers that are participating in state administered
 9 health care programs.

10 Sec. 3. A person who has been excluded from participating in a
 11 state administered health care program under section 1 of this
 12 chapter may apply to the office of the secretary in writing for
 13 reinstatement in a manner prescribed by the office of the secretary.

14 SECTION 3. IC 12-15-11-2.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2010]: Sec. 2.5. (a) A person:

17 (1) desiring to participate in the Medicaid program by
 18 providing items or services to individuals eligible for
 19 Medicaid services;

20 (2) changing the ownership of a Medicaid provider; or

21 (3) purchasing or transferring the assets or ownership
 22 interests of a Medicaid provider and enrolling as a provider
 23 in the Medicaid program;

24 shall submit to the office a surety bond that meets the requirements
 25 under subsection (d) and in the amount of fifty thousand dollars
 26 (\$50,000) from an authorized surety at the time the person files a
 27 Medicaid provider agreement with the office.

28 (b) Not later than October 15, 2010, a person that is a Medicaid
 29 provider on June 30, 2010, shall submit to the office a surety bond
 30 in the amount of fifty thousand dollars (\$50,000) from an
 31 authorized surety.

32 (c) In addition to a surety bond filed under subsection (a) or (b),
 33 a Medicaid provider applicant or a Medicaid provider shall file an
 34 additional surety bond of fifty thousand dollars (\$50,000) for each
 35 adverse judgment or final order related to Medicaid provider
 36 services within the ten (10) years preceding enrollment, renewal,
 37 or the purchase or transfer of ownership.

38 (d) A surety bond filed with the office under this section must
 39 meet the following requirements:

40 (1) Be continuous.

41 (2) Provide that the bond is liable for a duplicate, erroneous,
 42 or false claim paid by the office to the provider under

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Medicaid during the term of the bond.

(3) Guarantee that the surety will, within thirty (30) days after receiving written notice from the office that contains sufficient evidence to establish the surety's liability under the bond of a duplicate, erroneous, or false claim paid by the office to the provider, pay the office the following amounts not to exceed the full amount of the bond:

(A) The amount of a provider's unpaid claim to the office, plus accrued interest, for which the provider is responsible.

(B) The amount of a duplicate, erroneous, or false claim that has previously been paid by the office to the provider.

(C) An assessment imposed by the office on the provider, plus accrued interest.

(4) Provide that if the Medicaid provider's billing privileges are revoked, the last bond or rider submitted by the Medicaid provider remains in effect until the last day of the surety bond coverage period and the surety remains liable for a duplicate, erroneous, or false claim paid by the office to the provider during the term of the bond.

(5) Name the Medicaid provider as principal, the office as obligee, and the surety, including the surety's heirs, executors, administrators, successors, and assignees, jointly and severally as surety.

(6) Provide that actions under the bond may be brought by the office or by the attorney general.

(7) Provide the surety's name, street address or post office box number, city, state, and ZIP code.

(e) The office may revoke or deny a Medicaid provider's billing privileges based on the submission of a bond that does not comply with this section.

(f) If a Medicaid provider determines to cancel a surety bond, the Medicaid provider shall do the following:

(1) Provide notice to the office and the surety at least thirty (30) days before the effective date of the cancellation.

(2) Submit a new bond before the effective date of the cancellation of the previous bond.

The office may revoke the Medicaid provider's billing privileges if the provider violates this subsection. The liability of the surety continues until the effective date of the cancellation.

(g) The surety shall notify the office of a lapse in the surety's coverage of a Medicaid provider.

(h) Upon notice under subsection (g) of a lapse in coverage or if

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a gap in coverage occurs, the office shall revoke the Medicaid provider's billing privileges. The office may not reimburse the Medicaid provider for services provided during the lapse or gap in coverage. The Medicaid provider is liable for the services provided and, if permitted by federal and state law, may charge the beneficiary for the services.

(i) A Medicaid provider that obtains a replacement surety bond from another surety to cover the remaining term of a previous bond shall:

- (1) submit the new surety bond to the office at least thirty (30) days before the expiration of the previous surety bond; and
- (2) ensure that there is no gap in coverage.

(j) If a Medicaid provider changes sureties during the term of the bond, the new surety is, beginning on the effective date of the surety, responsible for:

- (1) a duplicate, erroneous, or false claim paid to; or
- (2) an assessment imposed on;

the Medicaid provider by the office, plus interest. The previous surety is responsible for a duplicate, erroneous, or false claim paid to, or an assessment imposed on, the Medicaid provider during the effective date of the previous surety.

(k) The office may require a Medicaid provider to show compliance with this section at any time.

(l) If a surety has paid the office for a liability incurred under the surety bond for a Medicaid provider, and the Medicaid provider subsequently is successful in appealing the determination of liability, the office shall refund the surety or Medicaid provider for the amount paid for the liability upon the completion of the appellate process.

SECTION 4. IC 12-15-22-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1.5. In addition to any sanction imposed on a provider **or an individual** under section 1 of this chapter, a provider **or an individual** convicted of an offense under IC 35-43-5-7.1 is ineligible to participate in the Medicaid program for ten (10) years after the conviction.

SECTION 5. IC 12-15-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. A provider may appeal a sanction under **IC 12-8-15 or** section 1 of this chapter under rules concerning appeal that are adopted by the secretary under IC 4-22-2.

SECTION 6. IC 12-15-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. A final directive

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made by the office that:

- (1) denies payment to a provider for medical services provided during a specified period of time; ~~or~~
- (2) terminates a provider agreement permitting a provider's participation in the Medicaid program; **or**
- (3) excludes a provider from participating in the Medicaid program;**

must direct the provider to inform each eligible individual recipient of services, before services are provided, that the office or the office's contractor under IC 12-15-30 will not pay for those services if provided.

SECTION 7. IC 25-1-7-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 14. (a) If the board of a regulated occupation believes that a person who is not licensed, certified, or registered under this title is engaged in or is believed to be engaged in activities for which a license, certification, or registration is required under this title, the board may do the following:**

- (1) File a complaint with the attorney general, who shall investigate and may file:**

- (A) with notice; or**

- (B) without notice, if the attorney general determines that the person is engaged in activities that may affect an individual's health or safety;**

a motion for a cease and desist order with the appropriate board.

- (2) Upon review of the attorney general's motion for a cease and desist order, issue an order requiring the affected person to show cause why the person should not be ordered to cease and desist from such activities. The show cause order must set forth a time and place for a hearing at which the affected person may appear and show cause as to why the person should not be subject to licensing, certification, or registration under this title.**

(b) If the board, after a hearing, determines that the activities in which the person is engaged are subject to licensing, certification, or registration under this title, the board may issue a cease and desist order that shall describe the person and activities that are the subject of the order.

(c) A hearing conducted under this section must comply with the requirements under IC 4-21.5.

(d) A cease and desist order issued under this section is

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1 enforceable in the circuit or superior courts. A person who is
 2 enjoined under a cease and desist order and who violates the order
 3 shall be punished for contempt of court.

4 (e) A cease and desist order issued under this section does not
 5 relieve any person from criminal prosecution.

6 SECTION 8. IC 25-1-9-14 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) Except as
 8 provided in subsection (b), a practitioner may petition the board to
 9 accept the surrender of the practitioner's license instead of conducting
 10 a hearing before the board. The practitioner may not surrender the
 11 practitioner's license without the written approval of the board, and the
 12 board may impose any conditions appropriate to the surrender or
 13 reinstatement of a surrendered license.

14 (b) A board may not approve the surrender of a practitioner's
 15 license under subsection (a) if the office of the attorney general
 16 has:

17 (1) filed an administrative complaint concerning the
 18 practitioner's license; and

19 (2) notified the board of its opposition to the surrender of the
 20 practitioner's license.

21 SECTION 9. IC 25-4-2-10 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) Any person
 23 who:

24 (1) renders or offers to render services to the public, if the words
 25 "landscape architecture" or "registered landscape architecture" are
 26 used to describe these services;

27 (2) uses the title "registered landscape architect" or "landscape
 28 architect"; or

29 (3) engages in the practice of landscape architecture described in
 30 section 1 of this chapter;

31 without a current registration issued under this chapter commits a Class
 32 B infraction. A person who affixes a registered landscape architect's
 33 seal to a plan, specification, or drawing that has not been prepared by
 34 a currently registered landscape architect or under the immediate
 35 supervision of a currently registered landscape architect commits a
 36 Class B infraction.

37 (b) Each day a violation described in this section continues to occur
 38 constitutes a separate offense.

39 (c) The board may appear in its own name in the courts of the state
 40 and apply for injunctions to prevent violations of this chapter.

41 SECTION 10. IC 25-10-1-14 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) This section

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1 applies to all persons, including persons listed in IC 25-22.5-1-2.

2 (b) A person may manually manipulate, manually adjust, or
3 manually mobilize the spinal column or the vertebral column of an
4 individual only if the person is:

5 (1) a chiropractor who has been issued a license under this
6 chapter;

7 (2) a physician who has been issued an unlimited license to
8 practice medicine under IC 25-22.5; or

9 (3) an osteopathic physician who has been issued a license to
10 practice osteopathic medicine under IC 25-22.5.

11 (c) A person may not delegate the manual manipulation, manual
12 adjustment, or manual mobilization of the spinal column or the
13 vertebral column of an individual to another person, unless the other
14 person is:

15 (1) licensed as a chiropractor under this chapter;

16 (2) licensed as a physician with an unlimited license to practice
17 medicine under IC 25-22.5;

18 (3) licensed as an osteopathic physician with a license to practice
19 osteopathic medicine under IC 25-22.5;

20 (4) a student in the final year of course work at an accredited
21 chiropractic school participating in a preceptorship program and
22 working under the direct supervision of a chiropractor licensed
23 under this chapter; or

24 (5) a graduate of a chiropractic school who holds a valid
25 temporary permit issued under section 5.5 of this chapter.

26 (d) If a violation of subsection (b) or (c) is being committed:

27 (1) the board in its own name;

28 (2) the board in the name of the state; or

29 (3) the prosecuting attorney of the county in which the violation
30 occurs, at the request of the board and in the name of the state;

31 may apply for an order enjoining the violation from the circuit court of
32 the county in which the violation occurs.

33 ~~(e) Upon a showing that a person has violated subsection (b) or (c),~~
34 ~~the court may grant without bond an injunction; a restraining order; or~~
35 ~~other appropriate order.~~

36 ~~(f)~~ (e) This section does not apply to a physical therapist practicing
37 under IC 25-27. However, a physical therapist may not practice
38 chiropractic (as defined in IC 25-10-1-1) or medicine (as defined in
39 IC 25-22.5-1-1.1) unless licensed to do so.

40 SECTION 11. IC 25-15-8-19 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. If a violation of any
42 of sections 21 through 26 of this chapter is being committed:

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- (1) the board, in its own name
- (2) the board in the name of the state;
- (3) the attorney general in the name of the state, at the request of the board; or
- (4) the prosecuting attorney of the county in which the violation occurs, at the request of the board, and in the name of the state;

under IC 25-1-7-14, may apply for an order enjoining the violation. from the circuit court of the county in which the violation occurs.

SECTION 12. IC 25-27-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. A person who recklessly, knowingly, or intentionally violates this chapter commits a Class B misdemeanor. In addition the board may, in the name of the state, through the attorney general, apply in any court to enjoin any person from practicing physical therapy or acting as a physical therapist's assistant, in violation of IC 25-27-1-2.

SECTION 13. IC 25-30-1-21, AS AMENDED BY P.L.185-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 21. (a) A person who violates this chapter commits a Class A misdemeanor.

(b) A person violates this chapter if the person is not exempt under section 5 of this chapter, does not have a private investigator firm license, and knowingly or intentionally:

- (1) engages in the private investigator firm business;
- (2) solicits or advertises for business as a private investigator firm; or
- (3) in any way represents to be a private investigator firm.

(c) In addition to any other fine imposed on the person, the court shall fine the person convicted of an offense under subsection (b) the amount of compensation earned by the person in the commission of the offense. Notwithstanding IC 35-50-3-2, the total fine imposed under this section may exceed ten thousand dollars (\$10,000) if necessary to comply with this subsection.

(d) Each transaction under subsection (b) constitutes a separate offense.

(e) A complaint for a violation of this chapter or for an injunction under section 22 of this chapter is sufficient if the complaint alleges that a person on a specific day in a specific county:

- (1) engages in business as a private investigator firm;
- (2) solicited or advertised for business as a private investigator firm; or
- (3) represented to be a private investigator firm;

without a private investigator firm license.

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(f) A person who knowingly or intentionally fails or refuses to surrender a private investigator firm license issued under this chapter when the license is revoked by the board commits a Class A misdemeanor.

SECTION 14. IC 25-30-1.3-23, AS AMENDED BY P.L.3-2008, SECTION 202, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. (a) A person who recklessly, knowingly, or intentionally violates this chapter commits a Class A misdemeanor.

(b) A person who is not exempt under section 6 of this chapter, who does not have a security guard agency license, and who recklessly, knowingly, or intentionally:

(1) engages in business as a security guard agency;

(2) solicits or advertises for business as a security guard agency; or

(3) in any way represents to be a security guard agency; commits a Class A misdemeanor.

(c) In addition to any other penalty imposed on the person, the court shall fine a person convicted of an offense under subsection (b) the amount of compensation earned by the person in the commission of the offense. Notwithstanding IC 35-50-3-2, the total fine imposed under this section may exceed ten thousand dollars (\$10,000) if necessary to comply with this subsection.

(d) Each transaction under subsection (b) constitutes a separate offense.

(e) A complaint for a violation of this chapter ~~or for an injunction under section 24 of this chapter~~ is sufficient if the complaint alleges that a person or business entity on a specific day in a specific county:

(1) engaged in business as a security guard agency;

(2) solicited or advertised for business as a security guard agency; or

(3) represented to be a security guard agency; without a security guard agency license.

(f) A person who recklessly, knowingly, or intentionally fails or refuses to surrender a security guard agency license issued under this chapter when the license is revoked by action of the board commits a Class A misdemeanor.

SECTION 15. IC 25-34.1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) A person who:

(1) performs the acts of a salesperson without a salesperson license;

(2) performs the acts of a broker without a broker license; or

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(3) conducts, or solicits or accepts enrollment of students for, a course as prescribed in IC 25-34.1-3 without course approval; commits a Class A infraction. Upon conviction for an offense under this section, the court shall add to any fine imposed, the amount of any fee or other compensation earned in the commission of the offense. Each transaction constitutes a separate offense.

(b) In all actions for the collection of a fee or other compensation for performing acts regulated by this article, it must be alleged and proved that, at the time the cause of action arose, the party seeking relief was not in violation of this section.

(c) The commission may issue a cease and desist order to prevent violations of this section:

(1) If the commission determines that a person is violating this section; or is believed to be violating this section; the commission may issue an order to that person setting forth the time and place for a hearing at which the affected person may appear and show cause as to why the challenged activities are not in violation of this section:

(2) After an opportunity for hearing, if the commission determines that the person is violating this section; the commission shall issue a cease and desist order which shall describe the person and activities which are the subject of the order:

(3) A cease and desist order issued under this section is enforceable in the circuit courts of this state:

(d) The attorney general; the commission; or the prosecuting attorney of any county in which a violation occurs may maintain an action in the name of the state to enjoin a person from violating this section:

(e) In charging any person in a complaint for an injunction or in affidavit, information, or indictment with the violation of the provisions of this section; it is sufficient, without averring any further or more particular facts; to charge that the person upon a certain day and in a certain county either acted as a real estate broker or salesperson not having a license or conducted; or solicited or accepted enrollment of students for; a broker or salesperson course without course approval:

(f) (c) Each enforcement procedure established in this section **and IC 25-1-7-14** is supplemental to other enforcement procedures established in this section.

SECTION 16. IC 25-34.1-8-12, AS AMENDED BY P.L.3-2008, SECTION 204, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) A person who:

(1) performs:

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1 (A) the acts of a licensed real estate appraiser without a
 2 license; or
 3 (B) the acts of a certified real estate appraiser without a
 4 certificate; or
 5 (2) conducts or solicits or accepts enrollment of students for a
 6 course without course approval as required by section 13 of this
 7 chapter;
 8 commits a Class B infraction. When a judgment is entered for an
 9 offense under this section, the court shall add to any fine imposed the
 10 amount of any fee or other compensation earned in the commission of
 11 the offense. Each transaction constitutes a separate offense.
 12 (b) In all actions for the collection of a fee or other compensation for
 13 performing acts regulated by this article, a party seeking relief must
 14 allege and prove that at the time the cause of action arose the party was
 15 not in violation of this section.
 16 (c) ~~The attorney general; the board; or the prosecuting attorney of~~
 17 ~~any county in which a violation occurs may maintain an action in the~~
 18 ~~name of the state of Indiana to enjoin a person from violating this~~
 19 ~~section.~~
 20 (d) ~~In charging any person in a complaint for a judgment or an~~
 21 ~~injunction for the violation of this section; it is sufficient; without~~
 22 ~~averring any further or more particular facts; to charge that the person~~
 23 ~~upon a certain day and in a certain county:~~
 24 ~~(1) acted as:~~
 25 ~~(A) a certified real estate appraiser without a certificate; or~~
 26 ~~(B) a licensed real estate appraiser without a license; or~~
 27 ~~(2) conducted; or solicited or accepted enrollment of students for~~
 28 ~~a real estate appraiser course without course approval.~~
 29 ~~(e) (c) Each enforcement procedure established in this section and~~
 30 **IC 25-1-7-14** ~~is supplemental to other enforcement procedures~~
 31 ~~established in this section.~~
 32 **SECTION 17. IC 25-34.5-3-2 IS AMENDED TO READ AS**
 33 **FOLLOWS [EFFECTIVE JULY 1, 2010]:** Sec. 2. A person who
 34 **recklessly, knowingly, or intentionally** violates this chapter commits
 35 a Class B misdemeanor. ~~In addition to any other penalty imposed for~~
 36 ~~a violation of this chapter; the board may, in the name of the state of~~
 37 ~~Indiana through the attorney general; petition a circuit or superior court~~
 38 ~~to enjoin the person who is violating this chapter from practicing~~
 39 ~~respiratory care in violation of this chapter.~~
 40 **SECTION 18. IC 35-48-3-5, AS AMENDED BY P.L.197-2007,**
 41 **SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
 42 **JULY 1, 2010]:** Sec. 5. (a) An application for registration or

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re-registration submitted pursuant to and a registration issued under section 3 of this chapter to manufacture, distribute, or dispense a controlled substance may be denied, suspended, or revoked by the board upon a finding by the advisory committee that the applicant or registrant:

(1) has furnished false or fraudulent material information in any application filed under this article;

(2) has violated any state or federal law relating to any controlled substance;

(3) has had his federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or

(4) has failed to maintain reasonable controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels.

(b) The board may limit revocation or suspension of a registration or the denial of an application for registration or re-registration to the particular controlled substance with respect to which grounds for revocation, suspension, or denial exist.

(c) If the board suspends or revokes a registration or denies an application for re-registration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation or denial order may be placed under seal. The board may require the removal of such substances from the premises. No disposition may be made of substances under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation or denial order becoming final, all controlled substances may be forfeited to the state.

(d) The board shall promptly notify the drug enforcement administration of all orders suspending or revoking registration, all orders denying any application for registration or re-registration, and all forfeitures of controlled substances.

(e) If the Drug Enforcement Administration terminates, denies, suspends, or revokes a federal registration for the manufacture, distribution, or dispensing of controlled substances, a registration issued by the board under this chapter is automatically suspended.

(f) The board may reinstate a registration that has been suspended under subsection (e), after a hearing, if the board is satisfied that the applicant is able to manufacture, distribute, or dispense controlled substances with reasonable skill and safety to the public. As a condition of reinstatement, the board may impose disciplinary or corrective

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measures authorized under IC 25-1-9-9 or this article.

(g) If any state license authorizing the dispenser to act as a practitioner is revoked, the registration issued under this chapter is automatically revoked.

SECTION 19. IC 34-30-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.5. IC 4-6-14-10 (Concerning the attorney general for destroying or failing to maintain custody and control of certain records).**

SECTION 20. IC 35-48-7-8.1, AS AMENDED BY P.L.182-2009(ss), SECTION 399, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8.1. (a) This section applies after June 30, 2007.

(b) The advisory committee shall provide for a controlled substance prescription monitoring program that includes the following components:

(1) Each time a controlled substance designated by the advisory committee under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the INSPECT program the following information:

(A) The controlled substance recipient's name.

(B) The controlled substance recipient's or the recipient representative's identification number or the identification number or phrase designated by the INSPECT program.

(C) The controlled substance recipient's date of birth.

(D) The national drug code number of the controlled substance dispensed.

(E) The date the controlled substance is dispensed.

(F) The quantity of the controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(K) Other data required by the advisory committee.

(2) The information required to be transmitted under this section must be transmitted not more than seven (7) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

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(A) uploading to the INSPECT web site;

(B) a computer diskette; or

(C) a CD-ROM disk;

that meets specifications prescribed by the advisory committee.

(4) The advisory committee may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the advisory committee may not apply such a requirement to prescriptions filled at a pharmacy with a Type II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The committee may not require multiple copy prescription forms for any prescriptions written. The advisory committee may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be jointly approved by the committee and by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

(c) A pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance.

SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 25-2.1-13-1; IC 25-6.1-7-3; IC 25-14-1-14; IC 25-19-1-14; IC 25-20.2-8-4; IC 25-20.5-1-26; IC 25-21.5-11-1; IC 25-21.5-11-2; IC 25-22.5-8-4; IC 25-23-1-27.2; IC 25-24-1-19; IC 25-26-13-28; IC 25-30-1-19.5; IC 25-30-1-22; IC 25-30-1.3-24; IC 25-31-1-29; IC 25-33-1-16; IC 25-38.1-4-12.

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